

# Milbank

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August 21, 2020

**VIA HAND DELIVERY**

The Honorable P. Kevin Castel  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

*Application GRANTED.  
SO ORDERED.  
[Signature]  
JSDS  
8-26-20*

Re: MN Theaters 2006 LLC v. Grupo Cinemex, S.A. de C.V., 20-cv-5860 (PKC)

Dear Judge Castel:

[ We represent MN Theaters 2006 LLC (“Plaintiff”) in the above-captioned action, which is currently entirely under seal pursuant to the sealing order entered on July 27, 2020, a copy of which is submitted herewith. We write to move the Court for leave to unseal the action, and, specifically, (i) to file publicly the documents Plaintiff filed under seal previously, and (ii) permit future filings made by any party or by the Court to be filed publicly. In accordance with Your Honor’s Individual Practices, there is currently no scheduled conference before the Court. ]

On July 27, 2020, Plaintiff filed a letter motion, a copy of which is attached hereto, seeking leave to commence action temporarily under seal, along with a proposed sealing order.<sup>1</sup> Non-public commencement of the action was necessary to protect Plaintiff’s ability to enforce the *ex parte* attachment order, which Plaintiff intended to pursue (and indeed did pursue) concurrent with commencement of the action pursuant to Article 62 of New York’s Civil Practice Law and Rules, made available through Rule 64 of the Federal Rules of Civil Procedure.

On July 27, Judge Ronnie Abrams, who was serving as the Part 1 judge, so ordered the proposed sealing order. The sealing order provided that the case would be sealed in its entirety, but that, pursuant to Plaintiff’s request, Plaintiff must move to unseal once the Court rules upon the motion seeking the *ex parte* order of attachment, and, if granted, once the order of attachment

<sup>1</sup>The letter is dated July 24, 2020, but was filed on July 27, 2020.

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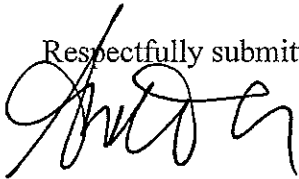
The Honorable P. Kevin Castel  
August 21, 2020

Page 2

is served on the Defendant-Plaintiff shall seek leave to unseal the action and all documents therein within fourteen business days thereafter (or submit by letter an explanation as to why different relief is warranted).<sup>2</sup> Your Honor granted Plaintiff's motion for an *ex parte* order of attachment on July 30, 2020 and Plaintiff served the order on Defendant on August 3, 2020. In accordance with the sealing order, Plaintiff hereby requests that the action be unsealed.

Plaintiff submits that the purpose of sealing this action has been served, and, accordingly, the interest in favor of public access now outweighs the competing considerations, including Plaintiff's "privacy interests" and the efficacy of "judicial performance." *United States v. Amodeo*, 71 F.3d 1044, 1050 (2d Cir. 1995).

Respectfully submitted,



Scott A. Edelman

cc: Grupo Cinemex, S.A. de C.V. via FedEx.  
Jesús Á. Guerra (Mexican counsel to Grupo Cinemex) via email.

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<sup>2</sup> The reason for the fourteen-day delay, as explained in the July 27, 2020 letter motion, was to allow Defendant the opportunity to review the sealed documents to determine whether Defendant wished to seek permanent sealing or redaction of any filings. Plaintiff has provided Defendant with copies of all relevant filings, and Defendant has not filed with the Court or communicated to Plaintiff a request to permanently seal or redact any portion of the documents previously filed under seal.

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

MN THEATERS 2006 LLC,

Plaintiff,

v.

GRUPO CINEMEX, S.A. de C.V.,

Defendant.

Civil Action No.:

~~PROPOSED~~  
SEALING ORDER

UPON the *ex parte* motion of MN Theaters 2006 LLC ("Plaintiff"), through its attorneys, for an order granting leave to commence the above-captioned action under temporary seal and to temporarily seal all filings therein, along with the declaration of Jed M. Schwartz, filed in support thereof (together, the "Motion to Seal"), and all pleadings, papers, and evidence submitted in the above-captioned action, sufficient cause being alleged therein,

1. IT IS HEREBY ORDERED that the Motion to Seal is GRANTED, and

2. IT IS FURTHER ORDERED that, accordingly, the Clerk of Court is ordered to seal the above-captioned action in its entirety and file under seal the following documents until such time that the Court unseals the action:


- a. the Motion to Seal;
- b. Plaintiff's complaint and the exhibits thereto;
- c. the civil cover sheet;
- d. the proposed summons;
- e. Plaintiff's statement pursuant to Rule 7.1 of the Federal Rules of Civil Procedure;
- f. the proposed order in connection with Plaintiff's *ex parte* motion for an order of attachment and discovery;

- g. the memorandum of law in support of Plaintiff's *ex parte* motion for an order of attachment and discovery (the "Motion for Attachment");
- h. the declaration of Robert A. Parillo, Jr. in support of the Motion for Attachment;
- i. the declaration of Jed M. Schwartz in support of the Motion for Attachment;
- j. the declaration of Joseph J. Kammerman in support of the Motion for Attachment and the exhibits thereto; and
- k. all future filings made by any party or by the Court.

3. IT IS FURTHER ORDERED that, once the Court rules upon the Motion for Attachment—and, if granted, once the order of attachment is served on Defendant—Plaintiff shall (i) seek leave to unseal the action and all documents therein within fourteen business days thereafter or (ii) submit by letter an explanation as to why different relief is warranted.

SO ORDERED.

Dated: July 27, 2020  
New York, New York



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UNITED STATES DISTRICT JUDGE